

FILED
U.S. DISTRICT COURT
BRUNSWICK DIV.

2019 JUL 23 PM 1:21

**In the United States District Court
For the Southern District of Georgia
Brunswick Division**

CLERK *J. Leigh*
SO. DIST. OF GA.

AARON MCCLENDON,

Movant.

v.

UNITED STATES OF AMERICA,

Respondent.

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CIVIL ACTION NO.: 2:17-cv-136

ORDER

After an independent and de novo review of the entire record, the Court concurs with the Magistrate Judge's recommended disposition in this case. Dkt. No. 7. The Magistrate Judge recommended Movant Aaron McClendon's ("McClendon") motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 be dismissed based on McClendon's failure to respond to this Court's Order, failure to respond to the Government's response to his § 2255 motion, and failure to prosecute. Id. Although McClendon did file a reply to the Government's response, his reply was filed the same day the Magistrate Judge issued his Report and Recommendation and was signed almost a week after the provided deadline. See Dkt. No. 6 (giving McClendon 21 days from February

8, 2018 to file a response to the Government's response). The Court accepts McClendon's untimely response but finds McClendon's § 2255 motion is nevertheless due to be dismissed based on McClendon's failure to follow a different Court Order and for not updating his address.¹

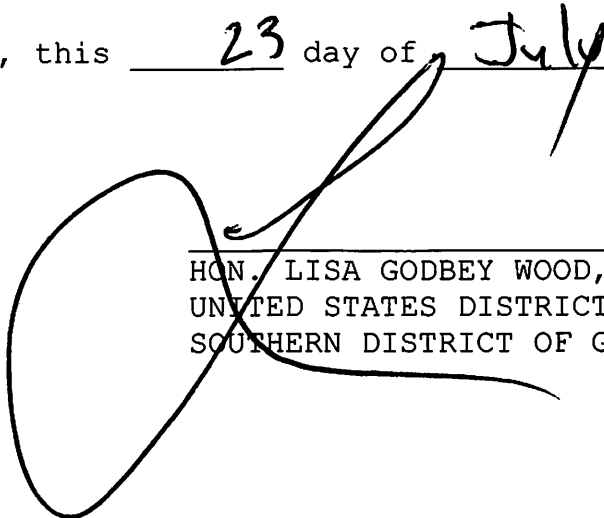
In the Court's November 15, 2017 Order, McClendon was directed to inform this Court in writing of any change of address and was forewarned his failure to do so would result in the dismissal of his cause of action. Dkt. No. 3, p. 1. When McClendon's case was reassigned to another Magistrate Judge and when the Court imposed a stay in proceedings due to a lapse in federal appropriations and then lifted that stay, the Court sent these Orders to McClendon at his last known address. Each of these documents was returned to the Court as undeliverable because McClendon was not at the address he provided. Dkt. Nos. 9, 11, 13.

Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation, as supplemented herein, as the opinion of the Court, **DISMISSES without prejudice** McClendon's 28 U.S.C. § 2255 Motion based on his failure to follow a Court Order, and **DIRECTS** the Clerk of Court to **CLOSE** this case and enter the appropriate

¹ Indeed, the Court has reviewed McClendon's Reply to the Government's Response to his § 2255 Motion. Dkt. No. 8. McClendon offers little more than a shortened restatement of his original Motion and fails to counter the Government's Response. Id. McClendon's § 2255 Motion would be subject to denial, if the Court had entertained the relative merits of his Motion.

judgment of dismissal. The Court **DENIES** McClendon *in forma pauperis* status on appeal and a Certificate of Appealability.

SO ORDERED, this 23 day of July, 2019.



HON. LISA GODBEY WOOD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA